



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
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December 29, 1971

Honorable Bevington Reed
Commissioner
Coordinating Board
Texas College and University
System
P. O. Box 12788, Capitol Station
Austin, Texas 78711

Opinion No. M-1024

Re: Tuition fees for students
who are citizens of any
country other than the
United States.

Dear Dr. Reed:

Your request for an opinion asks the following question:

"The Coordinating Board requests your opinion as to whether a student who is a citizen of any country other than the United States of America as identified in Item (7) of Section 1.(a) is a 'nonresident student' for purposes of Item (1) of Section 1.(b) of Article 2654c."

Subdivision (1) of Subsection (b) of Section 1 of Article 2654c, Vernon's Civil Statutes, as amended by House Bill 43, Acts 62nd Legislature, R.S. 1971, Ch. 511, p. 1745, provides:

"(b) Notwithstanding the provisions of subsection (a) of this section:

"(1) Any nonresident student who is enrolled for the spring semester of 1971 in an institution covered by subsection (a) of this section may continue to enroll at the same institution at the same tuition rate that was effective at the time of his original enrollment until one of the following conditions first occurs:

"(i) he receives the degree at the degree level (i.e., the baccalaureate, master's, or doctoral degree) toward which he is working during the spring semester of 1971; or

"(ii) he voluntarily withdraws from the institution or the institution involuntarily withdraws the student for disciplinary reasons or for failing to meet the academic standards of the institution; or

"(iii) the termination of the spring semester of 1975."

Subdivision (7) of Subsection (a) of Section 1 of Article 2654c, Vernon's Civil Statutes, as amended by Senate Bill 1036, Acts 62nd Legislature, R.S. 1971, Ch. 958, p. 2898, provides:

"(7) Tuition for students who are citizens of any country other than the United States of America is Fourteen Dollars (\$14) per semester credit hour, but the total of such charge shall be not less than Two Hundred Dollars (\$200) per semester or twelve (12) week summer session, and not less than One Hundred Dollars (\$100) per six (6) week summer term."

The provisions of Senate Bill 1036 above quoted apply to the tuition fees payable by students who are citizens of any country other than the United States for two reasons: (1) the provisions of Senate Bill 1036 are a later expression of the Legislature than the provisions of House Bill 43 above quoted; and (2) the provisions of Senate Bill 1036 above quoted apply to a particular class of nonresident students, that is, those who do not reside in the United States.

In Wright v. Broeter, 196 S.W.2d 82 (Tex.Sup. 1946), it is stated:

". . . In order to uphold both acts the first act may be regarded as an exception to the second. Cain v. State, supra. Under the rule requiring that the two acts be construed together as one, we are not concerned with the question of whether or not any provisions in one may be found to be repugnant to corresponding provisions in the other. Our concern in this case is limited to a consideration of whether or not there is repugnancy between the particular provisions of the acts with reference to service of process. If it should be granted, as

contended, that certain provisions of the second act are repugnant to corresponding provisions of the first, it would not follow that the whole of the first be stricken down, for the second act would repeal the first act only to the extent of the repugnancy. Any provisions in the first act not repugnant to provisions of the second act would remain as valid portions of the two acts considered as one. As stated in *Garrison v. Richards*, supra (107 S.W. 865): 'Where two acts are passed at the same session of the Legislature they should be construed together as one act, and, if possible, so that both may stand. *McGrady v. Terrell*, 98 Tex. 427, 84 S.W. 641; *Lewis' Suth. on Stat. Const.*, § 268. But where the two are repugnant and irreconcilable, the one approved last repeals the other to the extent of the repugnancy.'

See also *Allied Finance v. Falkner*, 397 S.W.2d 846 (Tex.Sup. 1966).

The rule applicable to the two acts in question is distinctly stated in 53 Tex.Jur.2d 160, Statutes, Sec. 110, as follows:

"The enactment of a general law does not ordinarily operate as a repeal of a particular or special law, by implication, though both relate to the same subject matter. On the contrary, both statutes are permitted to stand, and the general law is applicable to all cases not embraced by the specific act. In other words, the particular act is construed as constituting an exception to the general law. This is a settled rule of construction, based on the presumption that a specific statute evidences the intention of the legislature more clearly than a general one, and therefore should control."

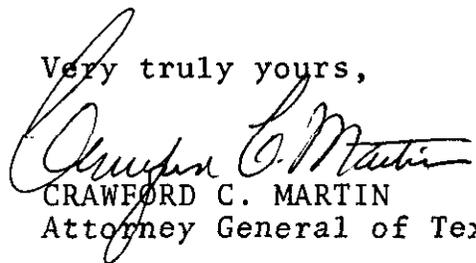
In our opinion, the two acts being construed are not repugnant and may be harmonized, as above shown. In view of the foregoing you are advised that in our opinion the provisions of Subdivision (1) of Subsection (b) of Section 1 of Article 2654c, Vernon's Civil Statutes, as amended by House Bill 43, supra, are not applicable to students who are citizens of any country other than the United States for the reason that tuition of these

particular students is governed by the provisions of Subdivision (7) of Subsection (a) of Section 1 of Article 2654c, Vernon's Civil Statutes, as amended by Senate Bill 1036, supra.

S U M M A R Y

The tuition applicable for students who are citizens of any country other than the United States is governed by the provisions of Subdivision (7) of Subsection (a) of Section 1 of Article 2654c, Vernon's Civil Statutes, as amended by Senate Bill 1036, Acts 62nd Legislature, R.S. 1971, Ch. 958, page 2898.

Very truly yours,


CRAWFORD C. MARTIN
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Prepared by John Reeves
Assistant Attorney General

APPROVED:
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